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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/760,905	01/17/2001	Stephen L. Gordon	SLG-1	3536

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EXAMINER	
RONES, CHARLES	
ART UNIT	**PAPER NUMBER**
2175	7

DATE MAILED: 03/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/760,905	Applicant(s) GORDON, STEPHEN L.	
	Examiner Charles L. Rones	Art Unit 2175	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *22 December 2003*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-23* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-23* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other:

DETAILED ACTION

Amendment

The request for reconsideration timely filed on December 22, 2003 has been entered.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 10 and 12-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 12-18 state "media-borne." It is unclear what this means limitation means.

Claims 10 and 20 state "useable by laymen in the field of ergonomic" is deemed to be relative. Basically applicant is claiming "easy to use."

Claim 16 states "at least one program may be understood and implemented by laymen in the field of ergonomics." First, "may be", is uncertain and relative. Secondly, "understood and implemented by laymen in the field of ergonomics" is relative, like claiming "easy to understand."

Claims 11 and 17 state wherein ergonomic programs conform to government regulations where the government is not deemed to have regulations regarding software programs.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-23 are rejected under 35 U.S.C. 102(e) as being anticipated by Stern et al. U.S. Patent No. 6,592,223 ('Stern').

Stern discloses:

As to claim 1,

an interactive web-site including certain ergonomics resources, said resources including at least one ergonomics program that includes, in turn, at least one database; See Fig. 3; 5:31-43; 6:40-47;

a computer remote from said web-site; See Fig. 3; 5:31-43; 6:40-47;

access means for interactively connecting said web-site and said remote computer; See Fig. 3; 5:31-43; 6:40-47; and,

means to provide at least one report related to said ergonomics resources; See ; See Fig. 3; 5:31-43; 6:40-47.

As to claim 2,

said ergonomics resource system is an expert system usable by laymen wherein said user is deemed to include laymen and the system that uses analysis and recommendation system deemed to be an expert system expert; See Fig. 3; 5:31-43; 6:40-47;

said at least one database includes controls for at least one work-site (corporate); See Fig. 3; 5:31-43; 6:40-47;

said remote computer may be operated by a user of said system; See Fig. 3; 5:31-43; 6:40-47;

said report, observable at said remote computer, includes controls for said at least one work-site; See Fig. 3; 5:31-43; 6:40-47.

As to claim 3,

an interactive web-site including certain ergonomics resources, said resources including a plurality of ergonomics programs that include, in turn, at least one database for a plurality of specific work-sites wherein corporate is deemed to include a plurality of work-sites; See Fig. 3; 5:31-43; 6:40-47;

a computer remote from said web-site that may be operated by a user of said system; See Fig. 3; 5:31-43; 6:40-47;

access means for interactively connecting said web-site and said remote computer; See Fig. 3; 5:31-43; 6:40-47;

means contained within said web-site for proposing certain questions to a user, obtaining answers thereto from a user, and analyzing said answers for certain ergonomics related information, all to define a work-site of interest; See Fig. 3; 5:31-43; 6:40-47;

means for extracting a specific ergonomics program from said database related to said work-site of interest; See Fig. 3; 5:31-43; 6:40-47; and,

means for making said extracted ergonomics program available to a user in the form of one or more reports; See Fig. 3; 5:31-43; 6:40-47.

As to claim 4.

wherein said one or more reports includes a report with specific controls related to said work-site of interest wherein the analysis is deemed to include all data; See Fig. 3; 5:31-43; 6:40-47.

As to claim 5,

wherein said system is an expert system and said report may be understood and said ergonomics program implemented, by laymen in the field of ergonomics wherein a

user is deemed to include laymen in the field of ergnomics; See Fig. 3; 5:31-43; 6:40-47.

As to claim 6,

wherein said means for proposing questions, obtaining answers, analyzing answers and said extracting means is application software, said questions appear at a monitor associated with said remote computer, and said answers are made with use of said monitor; See Fig. 3; 5:1-43; 6:40-47.

As to claim 7,

wherein said ergonomics resources include at least one database in addition to any databases associated with said ergonomics programs wherein the Internet is deemed to have other databases associated with ergonomics programs; See Fig. 3; 5:31-43; 6:40-47.

As to claim 8

wherein a user may access at least one database not maintained by said system wherein the Internet is deemed to be such a system; See Fig. 3; 5:31-43; 6:40-47.

As to claim 9

wherein a user may access to at least one ancillary data base wherein the Internet is deemed to be such a database; See Fig. 3; 5:31-43; 6:40-47.

As to claims 10, 16, and 20, as best taught and understood,

wherein said system is an expert system useful to laymen in the field of ergonomics wherein a user is deemed to include laymen in the field of ergonomics wherein the Internet is deemed to be such a system.

As to claim 12, as best taught and understood,

ergonomics resources embedded in a storage media, said resources including at least one ergonomics program for a work-site of interest, which, in turn, includes at least one database relating said work-site of interest; See Fig. 3; 5:31-43; 6:40-47;

a computer with means for interfacing with said media, downloading said ergonomics resources, and extracting said at least one database for said work-site of interest; See Fig. 3; 5:31-43; 6:40-47.

As to claim 13, as best taught and understood,

wherein said extracted database may be made available in the form of a report; See Fig. 3; 5:31-43; 6:40-47.

As to claim 14, as best taught and understood,

wherein said at least one ergonomics program is a plurality of ergonomics programs and said at least one database is a plurality of databases wherein each user is deemed to have an analysis of various users and is distributed to various users

deemed to be a plurality of databases and wherein the website has a central database and the International database are deemed to form a plurality of database; See Fig. 3; 5:31-43; 6:40-47.

As to claim 15, as best taught and understood,

wherein said at least one ergonomics program is one ergonomics program; See Fig. 3; 5:31-43; 6:40-47.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 11 and 17, as best taught and understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Stern et al. U.S. Patent No. 6,592,223 ('Stern').

Stern discloses the claimed invention except for the ergonomics program conforms to government regulations. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide for the ergonomics program conforms to government regulations since it was known in the art that government regulations pertain to ergonomics and have such minimal standards in

place that a workplace must adhere to legally would be provided in an ergonomic system which is done to protect workers safety.

Response to Arguments

Applicant's arguments filed September 22, 2003 have been fully considered but they are not persuasive.

Firstly, Applicant states that he is open to change "media-borne" in the claims to a clearer statement.

In response, Examiner suggests something such as "A computer-readable medium carrying software instructions for..."

Secondly, Applicant states that "may be" can be changed to "is specifically designed to be."

In response, Examiner's position is that the suggested statement is sufficient, however to make such a change, Applicant must submit an amendment in the proper format to make such a change to the claims. See **Revised Amendment Format 37 CFR 1.121, http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/moreinfoamdtprac.htm**

Thirdly, Applicant refers to "government regulations."

In response, Examiner's position is that Applicant appears from the claims to be stating that the government has regulations for software regarding ergonomics. If that is the case and what Applicant is referring, then the claims are sufficient as already stated, however if Applicant is referring to the execution of the software will provide information

or some function that will conform to government regulations regarding ergonomics, then a change to clarify this will be necessary.

Fourthly, Applicant states that "useable by laymen" refers to providing means to use the system by non-experts.

In response, Examiner withdraws this assertion as it applies to "useable by laymen." However, Examiner stated also that "may be used" is relative and indefinite in this corresponding claim. A possibly better statement might be "can be used..."

Fourthly, Applicant argues that Stern alone and Stern combined with the obviousness rejection does not disclose Applicant's invention.

In response, Examiner maintains that Stern and Stern combined with the obvious rejection discloses Applicant's claimed invention.

Lastly, Applicant's remaining arguments related are not concerning the claims, but instead are issues which are not claimed and other issues of which Applicant deems is his invention and are argued are not contained in the specification. Therefore, Applicant is arguing that which is not claimed.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles L. Rones whose telephone number is 703-306-3030. The examiner can normally be reached on Monday-Thursday 8am-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dov Popovici can be reached on 703-305-3830. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3800.

Charles L. Rones

Primary Examiner
Art Unit 2175

February 24, 2003